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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/406,445 09/27/99 BARKER

F OT-4551

EXAMINER

PM82/0425

TROXELL K SNYDER
OTIS ELEVATOR COMPANY
INTELLECTUAL PROPERTY DEPT
10 FARM SPRINGS
FARMINGTON CT 06032

TRAN, T

ART UNIT

PAPER NUMBER

3652
DATE MAILED:

04/25/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary

Application No.

09/406,445

Applicant(s)

Barker et al.

Examiner

Thuy V. Tran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Feb 12, 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 15-34 is/are pending in the application.
- 4a) Of the above, claim(s) 22 and 32 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 15-21, 23-31, 33, and 34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☒ Notice of References Cited (PTO-892)
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
- 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 19) ☐ Notice of Informal Patent Application (PTO-152)
- 20) ☐ Other: _____

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DETAILED ACTION

Election/Restriction

1. Claims 22 and 32 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 3.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 15-21, 23, 24 and 29 are rejected under 35 U.S.C. 112, first paragraph, as containing subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. It is not understood how the horizontal locator(s) may cause the friction surface to exert a pressure of 50 psi on the rail if the only normal force present is when the wedge at its top/bottom dead center. In other words, it appears that the horizontal locator itself cannot exert enough normal force to the friction surface in order to produce a pressure of approximately 50 psi.

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

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The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

5. Claims 15-21, 23-31, 33 and 34 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The preamble of claim 15 indicates that applicant intend to claim a “guide rail safety device” as a subcombination. However, in the body of the claims, there are positive recital of structure indicating that a combination of a “guide rail safety device” and a “non-metallic guide rail” is being claimed, e.g., in claim 19, lines 1-3, “the friction surface is formed of a material that has a coefficient of friction of at least approximately 1.0 relative to the non-metallic guide rail”; in claim 23, lines 1-2, “wherein the horizontal locators urge the friction surface into contact with the non-metallic guide rail”; and in claim 24, lines 2-4, “only one of the two horizontal locators at a time urges the friction surface into contact with the non-metallic guide rail”. Therefore, it is unclear if applicant’s intent is to claim a “guide rail safety device” as a subcombination or a combination of a “guide rail safety device” and a “non-metallic guide rail”. Since the preamble clearly sets forth that a subcombination is being claimed, claims 15-21, 23 and 24 will be examined as a subcombination.

The preamble of claim 25 indicates that applicant intend to claim a “guide rail safety device” as a subcombination. However, in the body of the claims, there are positive recital of structure indicating that a combination of a “guide rail safety device” and a “non-metallic guide

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rail” is being claimed, e.g., in claim 25, lines 5-7, “the friction surface being formed of a material that has a coefficient of friction of at least approximately 1.0 relative to the non-metallic guide rail”; in claim 29, lines 1-3, “wherein the friction surface is sized so as to exert a pressure of not more than approximately 50 psi on the non-metallic guide rail”; in claim 33, lines 1-2, “wherein the horizontal locators urge the friction surface into contact with the non-metallic guide rail”; and in claim 34, lines 2-4, “only one of the two horizontal locators at a time urges the friction surface into contact with the non-metallic guide rail”. Therefore, it is unclear if applicant’s intent is to claim a “guide rail safety device” as a subcombination or a combination of a “guide rail safety device” and a “non-metallic guide rail”. Since the preamble clearly sets forth that a subcombination is being claimed, claims 25-31, 33 and 34 will be examined as a subcombination.

Further, with regard to the recitation “at least one horizontal locator for urging the friction surface into contact with the non-metallic guide rail at a pressure of not more than approximately 50 psi on the non-metallic guide rail”, found in claim 15, lines 6-8, renders the claim indefinite because the horizontal locator itself cannot exert any desire pressure. In other words, the pressure being exerted to the guide rail depends on a normal force and an area of the friction surface in contact with the guide rail.

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Claim Rejections - 35 USC § 103

6. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

7. Claims 15-19, 23-29, 33 and 34 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearson 5,065,845.

Pearson '845 discloses a guide rail safety device comprising a housing 2, Figures 2, 5 & 6, a wedge having a friction surface disposed in the housing, two horizontal locators B for urging the friction surface into contact with the guide rail 6, an actuator for triggering urging of the friction surface by the horizontal locators.

Re the recitation "the friction surface is sized so as to exert a pressure of not more than approximately 50 psi on the guide rail", Pearson discloses in column 4, lines 34-41, that by adjusting the adjustable springs 31, the opposing force exerting on the guide rail can be adjusted.

Re the recitation "the friction surface being formed of a material that has a coefficient of friction of at least approximately 1.0 relative to the non-metallic guide rail", the friction surface of Pearson is capable of having a coefficient of friction of at least approximately 1.0 relative to the guide rail which depends on the friction surfaces of the safety device and the rail since the recitation "non-metallic guide rail" was not given any patentable weight.

Re the recitation "the bearing surface is comprised of a material that is selected from steel and iron", it would have been obvious to make the wedge bearing surface of Pearson reference

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from steel and iron since the bearing surfaces made out of steel and iron are well known in the bearing art.

8. Claims 15, 19, 23-25, 33 and 34 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Poon 5,230,406.

Poon discloses a guide rail safety device comprising a housing, Figures 6-9, a wedge 10 having a friction surface disposed in the housing, an actuator 11a for triggering urging of the friction surface into contact with the guide rail by two horizontal locators.

Re the recitation "the friction surface is sized so as to exert a pressure of not more than approximately 50 psi on the guide rail", Poon guide rail safety device is capable of exerting a pressure of not more than approximately 50 psi, as broadly claimed.

Re the recitation "the friction surface being formed of a material that has a coefficient of friction of at least approximately 1.0 relative to the non-metallic guide rail", the friction surface of Poon is capable of having a coefficient of friction of at least approximately 1.0 relative to the guide rail which depends on the friction surfaces of the safety device and the rail since the recitation "non-metallic guide rail" was not given any patentable weight.

9. Claims 16-18, 20, 21, 26-28, 30 and 31 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Poon 5,230,406 as applied to claims 15 and 25, respectively, above, and further in view of Kopman et al. 5,531,295.

Poon '406 discloses all the claimed limitations except for having the friction surface formed from vulcanized rubber.

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Kopman et al. '295 disclose a brake device having a friction surface 33 formed from vulcanized rubber.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a vulcanized rubber for the friction surface of Poon's safety device as taught and suggested by Kopman in order to provide a higher friction surface.

10. Claims 20, 21, 30 and 31 (as best understood) are rejected under 35 U.S.C. 103(a) as being unpatentable over Pearson 5,065,845 as applied to claims 15 and 25, respectively, above, and further in view of Kopman et al. 5,531,295.

Pearson '845 discloses all the claimed limitations except for having the friction surface formed from vulcanized rubber.

Kopman et al. '295 disclose a brake device having a friction surface 33 formed from vulcanized rubber.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized a vulcanized rubber for the friction surface of Pearson's safety device as taught and suggested by Kopman in order to provide a higher friction surface.

Response to Arguments

11. Applicant's arguments with respect to claims 15 and 25 have been considered but are moot in view of the new ground(s) of rejection.

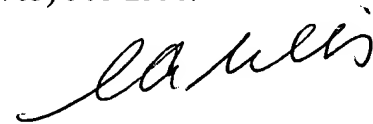
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Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

13. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thuy v. Tran whose telephone number is (703) 308-2558.



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TVT (TNT)

April 23, 2001